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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,633	02/05/2002	Yusuf Ali	GOJO.01211	8088

26360 7590 06/16/2004

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AKRON, OH 44308

EXAMINER

KIM, VICKIE Y

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/068,633

Applicant(s)

ALI ET AL.

Examiner

Vickie Kim

Art Unit

1614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-10, 12 and 25.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☒ Other: See Continuation Sheet

VICKIE KIM
PRIMARY EXAMINERVickie Kim
Primary Examiner
Art Unit: 1614

Continuation of 5. does NOT place the application in condition for allowance because: the instant claims fail to distinguish the patentability of the claimed subject matter from the teaching of the prior art cited. The 132 declaration and the request for reconsideration was carefully reconsidered but not persuasive. Applicant's 132 declaration is filed to support the superiority of the instant invention over to those found in the patent cited where applicant's tests showed unsatisfactory end-results, especially in respect to viscosity and the appearance (e.g. clearness). However, applicant fails to include specific element(s) that make(s) claimed invention patentably distinct. As acknowledged by the applicant, both patent and instant application utilizes same ingredients (i.e. C1-C4 alcohol, gelling agent (carbomer) and a neutralizer (e.g. sodium hydroxide)). Applicant claims that the composition in patented disclosure would not produce clear, viscous product whereas applicant's composition would. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Thus the 132 declaration does not place the application in condition for allowance.

Continuation of 10. Other: The request for the withdrawal of finality was carefully considered. Finality of the previous office action issued however, deems to be proper because the new ground of rejection was necessitated by applicant's amendment (e.g. exclusion of mousse inclusion of density), and thus, maintained. It is noted that 112 rejection is maintained since it is improper to incorporate reference to teach essential subject matter. MPEP(608.01) clearly teaches that it is improper to incorporate the essential subject matter into the application by reference to any printed material other than US patent, and thus, applicant's argument is not persuasive and the rejection is maintained. However, new matter rejection is withdrawn as upon issuing instant office action.